

2771-676

**Section II. REMARKS**

The pending claims under consideration in the application are claims 1-11.

**Request for Rejoinder Reminder**

Applicants respectfully request rejoinder of method claims 12-36 upon allowance of the composition claims 1-11.<sup>1</sup> Towards that end, withdrawn method claims 12 and 36 have been amended in a manner consistent with the pending composition claims.

**Allowable Subject Matter**

In the March 3, 2005 Office Action, claims 8-11 were found allowable and claims 5 and 6 were objected to as being dependent on a rejected base claim, and were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants acknowledge the Examiner's allowance of claims 8-11 and contingent allowance of claims 5 and 6 and respectfully request reconsideration of all pending claims 1-11 in light of the subsequent discussion.

**Rejection of Claims on Reference Grounds, and Traversal Thereof**

In the March 3, 2005 Office Action:

claims 1-4 and 7 were rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, unpatentable over Bhandari et al. (U.S. Patent No. 6,015,917).

These rejections are traversed in application to the claims as amended herein. The patentable distinction of the amended claims over the cited reference is set out in the ensuing discussion.

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<sup>1</sup> Rejoinder was previously requested in the response to the January 10, 2005 Office Action, filed January 24, 2005.

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**Rejection under 35 U.S.C. §102(b)**

In the March 4, 2005 Office Action, claims 1-4 and 7 were rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, unpatentable over Bhandari et al. (U.S. Patent No. 6,015,917) (hereinafter Bhandari). Applicants traverse such rejection.

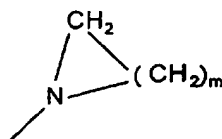
Applicants have amended claim 1, formula (III), to recite:

**“tantalum amide compounds of the formula (III):**

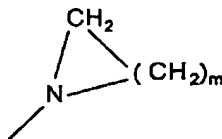


**wherein:**

**at least one of  $NR^1R^2$  and  $NR^3R^4$  may be represented by the molecular moiety**



**wherein  $m = 1, 2, 3, 4, 5$  or  $6$ , and wherein when only one of  $NR^1R^2$  and  $NR^3R^4$  is said molecular moiety**

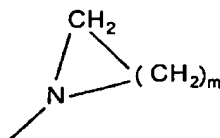


**the other of  $NR^1R^2$  and  $NR^3R^4$  has substituents  $R^1$  and  $R^2$  in the case of  $NR^1R^2$  and  $R^3$  and  $R^4$  in the case of  $NR^3R^4$  which are the same as or different from one another and each is independently selected from the group consisting of  $C_1$ - $C_4$  alkyl, silyl,  $C_3$ - $C_8$  cycloalkyl,  $C_1$ - $C_4$  alkylsilyl, and  $C_6$ - $C_{10}$  aryl, and**

**$n$  is 1, 2, 3, or 4.” (emphasis showing amendment)**

Bhandari does not motivate, teach or suggest a tantalum amide compound of the formula  $(R^1R^2N)_{5-n}Ta(NR^3R^4)_n$ , wherein at least one of  $NR^1R^2$  and  $NR^3R^4$  is represented by the molecular moiety

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It is well established, as a matter of law, that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987).

Further, the Examiner is respectfully reminded that in order to make a legally sufficient rejection based on a modification of the reference disclosure, the areas of the reference that suggest the modification must be explained with specificity. See, *Ex parte Humphreys*, 24 U.S.P.Q.2d 1255, 1262 (B.P.A.I. 1992). In the present case, there is no motivation or suggestion in Bhandari to use the aforementioned molecular moiety.

As such, claim 1, and claims 2-4, and 7 dependent thereunder, are not anticipated by, nor are they obvious in view of, Bhandari. Withdrawal of the rejection of claims 1-4 and 7 under §102(b), or in the alternative §103(a), is respectfully requested.

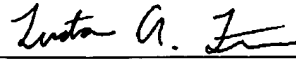
#### CONCLUSION

Based on all of the foregoing, pending claims 1-11 are now in form and condition for allowance. If any issues remain, incident to the formal allowance of the application, the Examiner is requested to contact the undersigned attorneys at (919) 419-9350 to resolve same, so that the patent on this application can be issued at the earliest possible time. The Examiner's thorough review of the application is acknowledged with appreciation.

Respectfully submitted,

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